

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2139

Samuel E. Haley, Jr.,

Appellant,

v.

William Galloway; Mason; Jimmy
Payne; Plummer; Grimm; Michael
Kemna; Jean Ann Johnson; Ann Page;
Russell Hollowell; Shanna Keeter;
Amy Gertz; D. Greene; L. Carr; P.
Gans; John Doe; Matthews,

Appellees.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* [UNPUBLISHED]
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Submitted: March 19, 2004

Filed: March 26, 2004

Before BYE, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

Missouri inmate Samuel E. Haley, Jr., appeals the district court's¹ orders disposing of his 42 U.S.C. § 1983 action. Having carefully reviewed the voluminous record in this case, we conclude that the district court was required to grant defendants' motion to dismiss Haley's lawsuit for failure to exhaust administrative remedies. See 42 U.S.C. § 1997e(a) (prisoner shall not bring § 1983 prison-conditions lawsuit before exhausting available administrative remedies). After the served defendants moved to dismiss, Haley did not present proof he had exhausted all the medical/retaliation claims raised in his original complaint, his supplement, and his motion to reopen. See Johnson v. Jones, 340 F.3d 624, 627 (8th Cir. 2003) (dismissal required when inmate has not administratively exhausted before filing lawsuit); Graves v. Norris, 218 F.3d 884, 885-86 (8th Cir. 2000) (per curiam) (dismissal proper where at least some of claims were unexhausted).

Accordingly, we need not address Haley's remaining arguments on appeal, and we affirm the dismissal of Haley's lawsuit, but we modify the dismissal to be without prejudice. See Chelette v. Harris, 229 F.3d 684, 688 (8th Cir. 2000), cert. denied, 531 U.S. 1156 (2001). We also deny Haley's pending motions.

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.